



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawskey  
Superintendent

October 21, 2014

Timothy Hayes  
General Counsel  
Ocwen Financial Corporation  
1661 Worthington Road, Suite 100  
West Palm Beach, FL 33409

Dear Mr. Hayes:

In the course of the Department's review of Ocwen's mortgage servicing practices, we have uncovered serious issues with Ocwen's systems and processes, including Ocwen's backdating of potentially hundreds of thousands of letters to borrowers, likely causing them significant harm.

In many cases, borrowers received a letter denying a mortgage loan modification, and the letter that was dated more than 30 days prior to the date that Ocwen mailed the letter. These borrowers were given 30 days from the date of the denial letter to appeal that denial, but those 30 days had already elapsed by the time they received the backdated letter. In other cases, Ocwen's systems show that borrowers facing foreclosure received letters with a date by which to cure their default and avoid foreclosure – and the cure date was months prior to receipt of the letter. The existence and pervasiveness of these issues raise critical questions about Ocwen's ability to perform its core function of servicing loans.

Even worse, Ocwen did nothing to investigate or address the backdating issue when an employee questioned the accuracy of Ocwen's letter dating processes and alerted the company's Vice President of Compliance. Ocwen ignored the problem for five months until the same employee raised it again. Even then, Ocwen failed to launch an appropriate investigation and still has not resolved the issue today, nearly a year after its initial discovery. Ocwen's indifference to such a serious matter demonstrates a troubling corporate culture that disregards the needs of struggling borrowers.

Ocwen has obligations under both New York and federal law, as well as various agreements with state and federal authorities, regarding how quickly it must communicate with borrowers on matters such as requests for mortgage modifications or the initiation of foreclosure proceedings. Ocwen is not meeting those obligations. And given the issues with Ocwen's systems, it may be impossible to determine the scope of Ocwen's non-compliance.

#### Ocwen's Backdating and Systems Failures

On June 19, 2014, the Monitor discovered that Ocwen backdated by 41 days a letter denying a mortgage loan modification. The letter Ocwen sent to the borrowers was dated June 14, 2012,

but the system indicated that it was not sent until July 25, 2012. Given the seriousness of this issue, the Monitor immediately demanded an explanation.

Over the course of the next three months, Ocwen represented to the Department and the Monitor that (1) the issue was isolated to letters of a specific type, (2) the problem affected approximately 6,100 letters, (3) Ocwen discovered the issue in April or May of 2014, and (4) Ocwen implemented changes to its systems in May 2014 that resolved the problem. Each of these representations turned out to be false.

In the meantime, the Monitor undertook its own investigation into the issue. Within a few days, the Monitor uncovered nearly a thousand additional backdated letters that Ocwen evidently failed to find in the prior three months.

The Monitor also discovered inconsistencies in Ocwen's servicing system that call into question the accuracy and reliability of Ocwen's recordkeeping. For example, Ocwen's system shows that Ocwen sent a borrower a pre-foreclosure notice dated May 23, 2013, stating that the borrower was in default and at risk of foreclosure. Yet, a conflicting record in Ocwen's system indicates that the notice was created on April 9, 2014 – nearly *one year after* the date of the pre-foreclosure notice. In another example, a letter dated October 29, 2013, warns that the borrower is in danger of foreclosure if he does not make a payment by August 7, 2013, nearly three months prior to the date of the letter. We do not yet know whether this borrower or the many others like him gave up trying to save their homes upon receiving such a letter that appeared to have arrived too late.

Subsequently, under pressure from the Department and the Monitor to identify and disclose the full extent of this issue, Ocwen finally admitted in a memorandum on September 10, 2014, that the backdating issue may not be isolated and that the changes to Ocwen's systems in May 2014 did not fully resolve the problem. However, Ocwen identified only a fraction of the instances of backdating that had already been uncovered by the Monitor.

The memorandum also repeated the assertion that Ocwen initially discovered the backdating issue in April 2014. However, after persistent questioning from the Monitor for more details surrounding the discovery of the issue, Ocwen informed the Monitor that its investigative team had been mistaken once again. Upon further investigation, Ocwen discovered that one of its employees identified the problem in November 2013 and informed senior management, including the Vice President of Compliance.

There is no indication that Ocwen did anything to investigate or remedy the problem in November 2013, nor did it alert its regulators, borrowers, or other interested parties to this issue. Five months elapsed before the same employee raised the issue again in April 2014. It is unclear what Ocwen did, if anything, in April 2014 to investigate the cause of this problem, its scope, or appropriate remedial measures. What is clear is that it still did not notify regulators, borrowers, or investors of this significant issue, nor did Ocwen personnel conduct due diligence to ensure that the issue was firmly resolved through the supposed fix in May 2014, or take steps to determine what impact, if any, the backdating may have already had on borrowers. As you know, these issues remain unresolved today.



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Accurate recordkeeping and timely communication with borrowers is fundamental to servicing distressed loans, particularly where time is of the essence as (1) interest and fees accumulate for borrowers on the brink of foreclosure, and (2) the time period to cure a default or to appeal a denial of a modification or other resolution comes to a close. Borrowers, of course, rely on their servicers to maintain accurate records to ensure that their payments are timely processed and to fully explore their loss mitigation options when they are struggling to make their payments. Mortgage investors rely on a servicer's records to ensure that they are being properly paid, that liens securing the property are properly filed, and that the servicer is working appropriately to cure borrower defaults. As a regulator, we rely on a regulated entity's recordkeeping to know whether the company is complying with the law, from notifying borrowers about a change in servicer to ensuring the right to foreclose before filing a foreclosure lawsuit.

In light of these serious issues and the likelihood that thousands of new, inaccurate records are created with each passing day, Ocwen has not approached this problem with the urgency it demands. Ocwen must fix its systems without delay. To that end, we demand that Ocwen respond to each request by the Monitor promptly and accurately, and that Ocwen dedicate the resources necessary to accomplish this task. We are directing the Monitor to share its findings with Ocwen so that Ocwen may better understand the severe nature of its own problems.

The stakes for borrowers and investors are enormous. If the Department concludes that it cannot trust Ocwen's systems and processes, then it cannot trust Ocwen is complying with the law. If Ocwen cannot demonstrate immediately that it is capable of properly servicing borrowers' needs, the Department intends to take whatever action is necessary to ensure that borrowers are protected.

Sincerely,



Benjamin M. Lawsky  
Superintendent of Financial Services

cc: William C. Erbey, Executive Chairman, Ocwen Board of Directors  
Ronald M. Faris, Ocwen Board of Directors  
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